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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/865,207	05/24/2001	Igor V. Barsukov	BARS 100	3899

26568 7590 10/10/2003

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EXAMINER

HENDRICKSON, STUART L

ART UNIT	PAPER NUMBER
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1754

DATE MAILED: 10/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No. 865247

Applicant(s) Bapstean

Examiner Hendrickson

Group Art Unit 1754

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☒ Responsive to communication(s) filed on 8/22/03
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-19 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-14, 17-19 is/are rejected.
- ☒ Claim(s) 15, 16 is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some* ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. _____.
- ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

Art Unit: 1754

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 4-7, 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holderness et al.

Holderness teaches in col. 2-3 treating graphite with anodic current and acid, then washing and removing the graphite. The reference does not teach multiple bath components, but it appears that only one is required. The reference differs only in not teaching the final solvent removal (ie, drying), however drying the graphite is an obvious expedient to make it less heavy to transport to the dump. Using the claimed treatment time is an obvious expedient to attain complete demetalliation. No difference is seen in the product made, even though not explicitly described.

Claims 1, 4-7, 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Argade.

Argade teaches in columns 4, 6-7 treating graphite in a sulfuric acid-water bath, then washing and recovering. The reference does not require graphite, but teaches it as an option. Using it, and the claimed current, is an obvious expedient to provide an activated electrode.

Claims 2, 3, 8-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Argade as applied to claims 1, 4-7, 17-19 above, and further in view of Sorensen et al.

Argade does not teach nitric acid, but Sorensen does in column 1 to treat carbon. Using nitric acid in the process of Argade is an obvious expedient to alter the carbon in the desired fashion. The examiner takes Official notice that the claimed drying methods are old and known ways to dry.

Applicant's arguments filed 8/22/03 have been fully considered but they are not persuasive.

The claims do not limit what a particle is, so the references treat particles. Claims 17 and 18 do not even recite this broad limitation. Claims 15, 16 are allowable.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication should be directed to examiner Hendrickson at telephone number (703) 308-2539.



Stuart Hendrickson
examiner Art Unit 1754